

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 14,476

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare that he was overpaid ANFC benefits for the months of April and May, 1996, due to the petitioner's receipt of a lump sum insurance settlement. The issue is whether certain payments the petitioner made from the lump sum should have been considered unavailable to him for reasons beyond his control, thus reducing the period of his disqualification from ANFC.

FINDINGS OF FACT

In April, 1996, the petitioner received a lump sum insurance settlement of \$2,500. It does not appear that the petitioner promptly reported his receipt of this money to the Department, and within a few weeks he had spent almost all of it. In determining the length of the petitioner's disqualification from ANFC (see infra), the Department allowed the petitioner a deduction of \$600 that the petitioner spent to purchase a used car and \$84 to purchase a clothes dryer. This left the petitioner with a countable lump sum of \$1816, which left the petitioner ineligible for two months of ANFC.⁽¹⁾

The Department did not allow a deduction for any of the other items the petitioner purchased with the lump sum. Those items were \$700 to fix up a room in the petitioner's basement, \$310 to purchase some items of furniture, \$145 on a back bill for some rented furniture, and unspecified amounts the petitioner spent to visit one of his children who lives out of state and to purchase summer clothes for the children who live with him.

At the hearing in this matter, held on October 16, 1996, the petitioner testified that he fixed up a basement room in his rented apartment at his own expense because his mental health counselor had advised him that he needed a quiet and comfortable place to meditate. The petitioner stated that he suffers from a bipolar disorder with post-traumatic stress, and that part of his therapy is to try to sit peacefully without distraction. Following the hearing the hearing officer allowed the petitioner several weeks to obtain a statement from his counselor verifying his need to create such a space in his home. The petitioner did not produce that verification.

The petitioner also testified that when he received his lump sum his old furniture was "junk" and that he was sleeping on a couch. The petitioner states he used part of the lump sum to buy a bed, a dining room

table and chairs, and to pay off an arrearage on the rental of a sofa.

ORDER

The Department's decision is affirmed.

REASONS

Welfare Assistance Manual (W.A.M.) § 2250.1 includes the following provisions:

Lump sum payments which are not excluded should be added together with all other non-ANFC income received by the assistance group during the month. When the total less applicable disregards exceeds the standard of need for that family, the family will be ineligible for ANFC for the number of full months derived by dividing this total income by the need standard applicable to the family. Any remaining income will be applied to the first month of eligibility after the disqualification period.

The period of ineligibility due to a lump sum benefit may be recalculated if:

1. An event occurs which, had the family been receiving assistance, would have changed the amount paid.
2. The income received has become unavailable to the family for circumstances beyond its control. Such circumstances are limited to the following unless the Commissioner of Social Welfare or his or her designee determines that the recipient's circumstances are substantially similar to those described below:
 - a. death or incapacity of the principal wage earner.
 - b. loss of shelter due to fire or flood.
 - c. repairs to owner-occupied homes which are essential to the health and safety of the family.
 - d. repair or replacement of essential, major household appliances.
 - e. repair or purchase of one motor vehicle per ANFC assistance group, essential for employment, education, training or other day-to-day living necessities. Expenses may include purchase and use tax, inspection fee, insurance, and registration fees, but not day-to-day operating expenses.
 - f. payments attributable to current monthly housing expenses (as defined in W.A.M. 2245.3) which are in excess of the maximum monthly ANFC housing allowance. Advance payments (i.e. payments for expenses which will be incurred after the period of ineligibility has ended) toward excess monthly housing expenses are not allowed.
 - g. payment of expenses which meet the following criteria:
 - (1) The bills were overdue as of the date the lump sum income was received.

(2) The bills were the legal liability of the client or other member of the assistance group.

(3) The client provides documentation that the lump sum income was used to pay the bills.

Eligible expenses under "g" above are as follows and are restricted to those of the primary residence and would include any late charges described in payment agreements or allowed by Public Service Board rules.

a. overdue rent (including lot rent)

b. overdue mortgage payments (principal and interest)

c. overdue property taxes

d. overdue homeowner's insurance

e. overdue heating bills

f. overdue utility bills (e.g. electricity, gas, water or sewage)

Other eligible expenses:

g. overdue telephone bills (basic monthly charge, applicable taxes, plus \$5 per month in toll charges)

h. overdue child care expenses necessary for a member of the assistance group to maintain employment, with the following limitation. If the overdue expenses were incurred when the individual was receiving ANFC, only the unsubsidized amounts attributable to employment-related child care are considered eligible expenses.

i. overdue expenses for one motor vehicle per ANFC assistance group, essential for employment, education, training or other day-to-day living necessities. Expenses may include overdue bills for repairs, purchase and use tax, inspection fee, insurance, and registration fees, but not day-to-day operating expenses.

3. The family incurs and pays for medical expenses which offset the lump sum income.

As noted above, the Department allowed the petitioner a deduction from his lump sum for the purchase of a car and a clothes dryer. The issue in this case is whether any of the petitioner's expenses that were not allowed by the Department can be considered "substantially similar" to any of those listed in the above regulation. It is concluded that none of them can be.

The petitioner did not establish that creating his meditation room (besides the fact that he was not the owner of the home in which the room was created) was "essential to (his) health" as set forth above. Similarly, the petitioner did not show that any of the items of furniture he purchased was the equivalent of an "essential, major household appliance" or any other item on the above list. Nor was it shown that

the purchase of clothes or the out-of-state visit to his child were essential and unavoidable.

Inasmuch as the Department's decision in this matter was in accord with the above regulation the Board is bound by law to affirm it. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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1. Because the Department could not implement its decision imposing the two-month disqualification period (see *infra*) until after the two months had elapsed, it determined that the petitioner had been overpaid ANFC for those months.